

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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CONCIERGE COMPOUNDING PHARMACEUTICALS, INC.,

Case No. 2:16-CV-1797 JCM (CWH)

ORDER

Plaintiff(s).

V.

EXPRESS SCRIPTS, INC.

Defendant(s).

Presently before the court is plaintiff's Concierge Compounding Pharmaceuticals, Inc.'s motion for extension of time pursuant to Federal Rule of Civil Procedure 56(d). (ECF No. 27). Plaintiff requests an extension of time to respond to defendant Express Scripts, Inc.'s motion for partial summary judgment to January 15, 2018. (ECF No. 23). Plaintiff represents that it needs this extra time to conduct further discovery, which closes December 15, 2017, in order to demonstrate a genuine issue of material fact that would defeat defendant's motion for partial summary judgment. *See* FRCP 56(d); (ECF No. 27, 28).

(d) When Facts Are Unavailable to the Nonmovant. If a nonmovant shows by affidavit or declaration that, for specified reasons, it cannot present facts essential to justify its opposition, the court may:

- (1) defer considering the motion or deny it;
- (2) allow time to obtain affidavits or declarations or to take discovery; or
- (3) issue any other appropriate order.

Fed. R. Civ. P. 56(d). Having reviewed defendant's motion for partial summary judgment, (ECF No. 23), and plaintiff's affidavit in support of its motion for an extension of time, (ECF No. 28), this court finds good cause to grant an extension to allow time for further discovery before resolving the defendant's motion for partial summary judgment.

1 Accordingly,

2 IT IS HEREBY ORDERED that plaintiff's motion for an extension of time (ECF No. 27)
3 be, and the same hereby is, GRANTED.

4 IT IS FURTHER ORDERED that defendant's motion for partial summary judgment (ECF
5 No. 23) is DENIED without prejudice. Defendant has leave to refile this motion after December
6 15, 2017.

7 DATED November 9, 2017.

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10 UNITED STATES DISTRICT JUDGE

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